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9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**  
11 **WESTERN DIVISION**

12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 vs.

16 PETER L. JENSEN and THOMAS C.  
17 TEKULVE, JR.,

18 Defendants.  
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Case No. CV 11-05316 R (AGRx)

**SUPPLEMENTAL MEMORANDUM  
BY PLAINTIFF SECURITIES AND  
EXCHANGE COMMISSION IN  
FURTHER OPPOSITION TO  
MOTION *IN LIMINE* NO. 5 BY  
DEFENDANT PETER L. JENSEN  
TO EXCLUDE ALL ARGUMENT  
OR REFERENCE AT TRIAL THAT  
PETER JENSEN AND LORENA  
JENSEN'S NINE MILLION  
DOLLARS IN PROCEEDS FROM  
THE SALE OF BASIN WATER  
SHARES ARE PROFITS FROM  
FRAUD AND TO LIMIT ALLEGED  
PROFITS TO ANY ILL-GOTTEN  
GAINS**

Date: February 25, 2013  
Time: 11:00 a.m.  
Place: Courtroom 8  
(Honorable Manuel L. Real)

1 In its Minute Order issued following the December 17, 2012 Pre-trial  
2 Conference, the Court invited Plaintiff Securities and Exchange Commission  
3 (“Commission”) to submit further briefing in support of its opposition to Motion *In*  
4 *Limine* No. 5 by Defendant Peter L. Jensen (“Jensen”) (Dkt. 110, 110-1, 110-2 &  
5 125), in which Jensen asked the Court to exclude any argument or reference at trial  
6 that the \$9.1 million of trading proceeds from his sale of stock constitute profits  
7 and limiting the amount of alleged profits.

8 Jensen’s motion relies heavily upon the testimony of his expert William  
9 Beaver (“Beaver”), and cannot be granted unless Dr. Beaver’s expert opinion is  
10 ruled admissible. However, the Commission has moved to exclude Dr. Beaver’s  
11 testimony (Dkt. 85, 85-1 & 119), and that motion is the subject of the January 28,  
12 2013 *Daubert* hearing scheduled by the Court. At the hearing, the Court will  
13 consider whether there is any “scientific validity and thus the evidentiary relevance  
14 and reliability of the principles that underlie the proposed submission” by Dr.  
15 Beaver. *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 594-95 (1993).

16 Accordingly, if the Court grants the Commission’s motion to exclude Dr.  
17 Beaver’s testimony, then it should deny Jensen’s Motion *In Limine* No. 5 since his  
18 motion cannot be granted without that testimony. On the other hand, if the Court  
19 chooses to allow Dr. Beaver to testify, despite his faulty methodology, the Court  
20 should still reject Jensen’s Motion *In Limine* No. 5 for the reasons set forth in the  
21 Commission’s opposition to that motion. *See* Dkt. No. 110. Moreover, should the  
22 Court require additional briefing regarding Jensen’s motion, the Commission  
23 suggests that such briefing should be ordered after the *Daubert* hearing.

24  
25 Dated: January 7, 2013

Respectfully submitted,

26 /s/Karen Matteson

27 Karen Matteson  
28 Attorney for Plaintiff  
Securities and Exchange Commission

**PROOF OF SERVICE**

I am over the age of 18 years and not a party to this action. My business address is:

[X] U.S. SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036-3648

Telephone No. (323) 965-3998; Facsimile No. (323) 965-3908.

On January 7, 2013, I caused to be served the document entitled **SUPPLEMENTAL MEMORANDUM BY PLAINTIFF SECURITIES AND EXCHANGE COMMISSION IN FURTHER OPPOSITION TO MOTION IN LIMINE NO. 5 BY DEFENDANT PETER L. JENSEN TO EXCLUDE ALL ARGUMENT OR REFERENCE AT TRIAL THAT PETER JENSEN AND LORENA JENSEN'S NINE MILLION DOLLARS IN PROCEEDS FROM THE SALE OF BASIN WATER SHARES ARE PROFITS FROM FRAUD AND TO LIMIT ALLEGED PROFITS TO ANY ILL-GOTTEN GAINS** on all the parties to this action addressed as stated on the attached service list:

[ ] **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

[ ] **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

[ ] **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

[ ] **HAND DELIVERY:** I caused to be hand delivered each such document to the office of the addressee as stated on the attached service list.

[ ] **UNITED PARCEL SERVICE:** By placing in sealed envelope(s) designated by United Parcel Service ("UPS") with delivery fees paid or provided for, which I deposited in a facility regularly maintained by UPS or delivered to a UPS courier, at Los Angeles, California.

[ ] **ELECTRONIC MAIL:** By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

[X] **E-FILE:** By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

I declare under penalty of perjury that the foregoing is true and correct.

Date: January 7, 2013

/s/ Karen Matteson  
Karen Matteson

**SEC v. Peter L. Jensen, et al.**  
**United States District Court – Central District of California**  
**Case No. CV 11-05316 R (AGRx)**  
**(LA-3478)**

**MASTER SERVICE LIST**

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